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Providing Briguna Loans Accompanied by Collateral to Civil Servants at Bank Rakyat Indonesia Limited Company (Persero) Tbk Company in Padang Branch

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Abstract

Briguna credit is credit given to prospective borrowers with a source of financing (repayment) derived from a fixed income source or fixed income (salary). One of the target markets for this loan is civil servants, by fulfilling the requirements of salaries and Decree on Appointment of Civil Servants. For this reason, the provisions regarding briguna credit in general are not requested for collateral in the form of immovable or movable objects. Every credit given by a bank to its customers raises what is called credit risk, as does the case with briguna credit. The risk in question is the failure of the customer in returning credit in the form of installments up to the full credit agreed at the beginning of the credit agreement. In this study two problem formulations were formulated. The data used are primary data in the form of interviews and document and library studies and secondary data sourced from primary legal materials and secondary legal materials. To analyze the data, a qualitative analysis was conducted. The provision of briguna credit accompanied by guarantees to civil servants at the Bank Rakyat Indonesia Limited Company in Padang Branch was motivated by: the character of the debtor in paying obligations, decreasing the salaries of civil servants in connection with the termination of the position of civil servants as well as the transfer of the bank payment of civil servants' salaries to competitor banks and influencing the ability to pay briguna credit by civil servants applying for credit, so as to avoid the occurrence of non-performing loans in accordance with the Account Officer analysis and adjustment official decision based on the precautionary principle of asking for the guarantee to be guaranteed and the guarantee request is approved by the debtor on the grounds of the need for credit, the requirements are easier than a Home Ownership Credit or Motorized Vehicle Loan, feeling safe if kept at a bank. The position of collateral in the granting of briguna credit is only kept in a Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch until the briguna credit is paid off, the proof of delivery is only with a receipt of guarantee, in this case the guarantee is only a moral binding that is to give a psychological impact on the debtor to be more responsible in paying briguna credit installments.

Keywords: *Credit Briguna; Civil Servants, Guarantees; Bank Rakyat Indonesia Limited Company (Persero) Tbk*

Introduction

Lending and borrowing money has been done for a long time in the lives of people who have known money as a means of payment. It can be seen that almost all societies, has made lending and borrowing money something that is needed to support the development of economic activities and to improve their standard of living. Lenders who have excess money are willing to lend money to those who need it. Conversely, the borrower based on the specific needs or objectives of borrowing money. In general it can be said that the borrower, borrowing money from lenders to finance needs that are closely related to the necessities of daily life or to meet the funding requirements to finance its business activities. Thus, lending and borrowing money is a part of people's lives today.¹

The need for funds for someone is absolute in order to meet the needs of daily life and in terms of business development or business. In order to support the business world in the context of creating community welfare, it certainly cannot be separated from capital problems, the capital provider institution that we know is Banking. Banking has a very important role in economic development, because it functions as a strategic institution in economic activity, it can even be called the heart of the economy.

Banking in Indonesia in conducting its business is based on economic democracy by using the principle of prudence, its main function is as a collector and distributor of public funds (Intermediary Function), as regulated in Article 3 of Act Number 7 of 1992 in conjunction with Act Number 10 of 1998 concerning Banking (hereinafter referred to as the Banking Act). To carry out this function, the business undertaken by the bank includes:

- a. Collecting funds from the public in the form of deposits in the form of demand deposits, time deposits, savings and other forms equivalent.
- b. Give credit.
- c. Issued a letter of acknowledgment of debt.
- d. Conducting activities in foreign exchange.
- e. Transfer money both for own interests and for the interests of customers.
- f. Conducting factoring, credit business and others.²

Credit is a financial facility that allows people to borrow money and repay it within a specified time period. According to Article 1 number 12 of the Banking Law, what is meant by credit is the provision of money or bills which can be equaled based on the agreement or loan agreement between the bank and another party that requires the borrower to repay the debt after a certain period of time with interest.

The banking business, especially lending, has a very high risk (degree of risk). Therefore banks in disbursing loans must adhere to the principle of prudence and always pay attention to sound credit principles, bearing in mind that the funds channeled by banks come from the public who entrust their money to banks. Management of public funds by banks in addition to striving for the achievement of

¹M. Bahsan, 2015, Law Guarantee and Credit Guarantee of Indonesian Banking, Rajawali Press, Jakarta, page. 1.

² Muhammad Djumhana, 2000, Indonesian Banking Law, Limited Company Citra Aditya Bhakti, Bandung, page. 288.

profits must also prioritize security or rescue for the return of funds from the risk of loss. Therefore, the existence of collateral or collateral is very important in bank lending, although it is not an absolute thing.³

Credit provided by banks, is intended to provide money based on loan and loan agreements made between the bank as a creditor and the customer / community as a debtor. In the most important element of credit is the existence of trust, banks in general do not easily give credit to customers or borrowers of funds, because everything depends on the feasibility of the customer. The bank has its own parameters in determining whether the customer is eligible for credit or not, most to see these criteria the bank will see the condition of the customer's previous banking history.

From this purpose, it is known that in a credit agreement a guarantee is given to the bank. The collateral provided is necessary because with this guarantee there will be a certainty of credit that has been given, to be returned according to the agreed time period, and has been stated in the credit agreement. The credit agreement itself holds a very important function both for the bank as the creditor and for the customer as the debtor.

Banks require collateral that is specifically bound to guarantee the debtor's debt and only applies to the bank. This guarantee is known as a special guarantee that arises because of the existence of a special agreement between the creditor and the debtor, usually with a wage guarantee which is then burdened with mortgage rights as collateral for the credit to the bank. The subject of guarantee legal studies does not only concern the creditor, but is also closely related to the debtor. While the object of study is collateral. All of the legal norms governing the legal relationship between the giver and receiver of the guarantee in relation to the imposition of collateral to obtain a credit facility.⁴

Lending by banks without collateral means increasing the risk of losses faced by banks. The bank must do a balancing of interest, that means it must be able to integrate profitability orientation or profit by capturing all opportunities in business, but also striving for safety or security by asking for collateral for the return of funds channeled to the customer. Without taking these steps, then the occurrence of loan problems that lead to credit defaults is only a matter of time.⁵

In principle, every bank that will extend credit granting always asks the debtor to provide collateral or provide a number of goods whose value can cover credit given, both the movable and immovable property.

Credit as one of the bank products given to the public to meet their needs by determining their own type of credit to be submitted. As part of the community, Civil Servants who are professions for civil servants in government agencies in relation to the proposed credit, in order to fulfill the terms of the credit agreement regarding the existence of collateral, in current banking practice there is a surrender in the form of a Decree of Appointment as a Civil Servant, Credit distribution by banks to these Civil Servants, of course there is the risk of bad loans that can harm the bank as a creditor.

As the bank with the widest network in Indonesia, the Bank Rakyat Indonesia Limited Company offering briguna credit to civil servants who can be used for consumptive and productive needs. Prospective borrowers can apply for this credit for a variety of personal needs such as home renovations, children's education costs, the cost of medical facilities or medical treatment, labor costs, the cost of a wedding party, to buy movable or immovable property.

³ M. Khoidin, 2015, Guarantee Law (Guarantee Rights, Mortgage Rights, and Execution of Mortgage Rights), Laksbang Yustitia, Surabaya, page. 3-4.

⁴ H.Salim, HS, 2016, Development of Guaranteed Law in Indonesia, Raja Grafindo Persada Limited Company, Jakarta, page. 7.8.

⁵ M.Khoidin, Op.Cit, page. 31-32

"Briguna is credit given to prospective debtors / debtors with payment sources originating from fixed income sources or fixed income (salary / pension). Briguna credit is given with a maximum term of 15 (fifteen) years ".⁶

Bank Rakyat Indonesia Limited Company (Persero) Tbk disbursing briguna credit provided that the government agency or prospective debtor company works has a cooperation agreement with Bank Rakyat Indonesia and the debtor credit installment payment system can be done with a power of attorney for deduction of wages / salaries by automatically debiting from the debtor's wage / salary account every month, known as Automatic Fund Transfer (AFT) and Collective Payment (payments made by treasurers of government agencies or companies).

Civil Servants who apply for Briguna credit enough to meet the requirements, namely the salary of prospective debtors and submit a Decree on Appointment of Civil Servants to Bank Rakyat Indonesia for safekeeping until the debtor's credit is paid off. The Decree on Appointment of Civil Servants gives confidence to the parties Bank Rakyat Indonesia Limited Company (Persero) Tbk to provide credit to prospective borrowers and confidence in the ability to pay credit installments by the debtor.

Credit distribution activities generally require a debt guarantee or what is called a credit guarantee "*agunan*". Collateral used as one of the credit conditions can be in the form of objects which according to law are classified as immovable property such as land or buildings in the form of Certificate of Ownership and can also be in the form of objects which according to law are classified as movable property such as Proof of Ownership of Motorized Vehicles. Although the Decree on Appointment of Civil Servants is not an object that can be transferred, but developments in banking practices that saw the economic side of the letter made it acceptable to several banks as collateral for credit, but for Bank Rakyat Indonesia Limited Company (Persero) Tbk call the loan briguna with unsecured credit or Unsecured Credit.

According to Indonesian law, Decree on Appointment of Civil Servants does not include material guarantees or personal guarantees, but included as special privileges which can be in the form of diplomas, decrees, pensions and others.⁷ Although the Decree on Appointment of Civil Servants has given confidence to Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch in giving briguna credit to civil servants, if it is felt to be important based on the precautionary principle, then for certain debtor criteria and a certain loan ceiling amount, a collateral to a civil servant applying for a loan will be requested in the form of a certificate of ownership or proof of ownership of a motorized vehicle.

Research Method

In conducting this research, the author uses empirical legal research methods that consist of "juridical" which means the law is seen as the norm or *das sollen*, because in discussing the problems of this study using legal materials (both written law and unwritten law or both primary legal material and secondary legal material). And also comes from the word "empirical" which means law as a social reality, cultural or *das sein*, because in this study used primary data obtained in the field. So, the empirical juridical approach in this study that in analyzing the problem is done by combining legal materials (which are secondary data) with primary data obtained in the field, especially studying and researching matters "Providing Briguna Loans To Civil Servants Accompanied by Guarantees on Bank Rakyat Indonesia

⁶ Circular Letter of the Directors of Bank Rakyat Indonesia NOSE: S.10-DIR / ADK / 05/2015 dated 29 May 2015 concerning BRIGUNA.

⁷ J. Satrio, 1993, Law of Guarantee of Material Security Rights, Citra Aditya Bakti, Bandung, page.11

Limited Company (Persero) Tbk Padang Branch" to implement the method, the following steps are needed.

Result and Discussion

A. Background on the Provision of Briguna Loans Accompanied by Guarantees to Civil Servants To Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch

Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch serving Briguna credit to Civil Servants since 2010, which was previously Briguna's credit named *Kretap Golbertap* (fixed income group credit). During the period of 2016 to 2018, Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch has served briguna credit with total debtors as follows:

Table 1
Number of Briguna Credit Debtors Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch

No.	Year (December 31 position)	Debtor Civil Servants / Indonesian National Army / Indonesian Republic Police	Private Debtor / State-Owned Enterprise
1	2016	2890	1010
2	2017	3020	995
3	2018	3430	1082

Source: Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch

Briguna is one of the consumer loans given to prospective debtors / debtors whose source of payment comes from fixed income, in this case one of the target markets for briguna credit is civil servants. In granting briguna credit the main requirements that must be met are the Decree on Appointment of Civil Servants, salary and Cooperation Agreement between the government agency where the debtor works with Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch. So that in the loan briguna it is clear that there is no requirement for the surrender of collateral in the form of ownership of the Certificate of Ownership or Proof of Ownership of Motorized Vehicles by the prospective debtor to Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch because the source of payment of credit installments comes from the salaries of civil servants.

Nonetheless, briguna credit still carries the risk of not fulfilling debtor's briguna credit installment payment obligations so that it can result in problematic briguna credit and causes the bank to give certain debtors a loan that is accompanied by collateral. This is generally motivated by:

1. Problems with the treasurer of the salaries of the institutions where civil servants applying for credit work misuse private loan installments for personal gain or escape;
2. The attitude of the debtor who does not have the bad faith in paying the loan installments every month, where when payment by autodebet is not yet running from the debtor's salary account to the debtor's loan account the debtor has made a withdrawal in advance at the automatic teller machine so that when the auto debit is active the debtor's savings balance is no longer available for briguna credit installment payments.

3. Early retirement of civil servants receiving credit based on health conditions results in an inadequate repayment of credit.
4. The debtor is serving a prison sentence incurred due to a corruption case or other criminal case which results in the debtor being fired from his status as a civil servant, so the debtor no longer has the ability to pay briguna credit installments every month.
5. A debtor whose payroll is transferred to a competitor's bank based on a recommendation from an official of the agency where the debtor works, while the relevant user credit cannot be transferred to the competitor's bank.

From the causes mentioned above, it can be concluded that the background Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch provides briguna credit accompanied by collateral as follows:

1. Character of the Debtor
 - a. This can be seen from the actions of individual debtors who make salary withdrawals in advance by moving to another savings account before the system debits the debtor's briguna loan installments. So the actions of this debtor cause it to happen indication Briguna credit have problems with a late payment of maximum 60 (sixty) working days. Billing has been done directly to the debtor and also through the salaried pay interpreter at the agency.
 - b. In connection with the possibility of transferring salaries by an authorized official at the agency where the debtor works to a competitor bank, where there is a change in the debtor's loan installment payment system, which is done in cash by the debtor to the debtor's briguna loan account or through a paymaster. However, because the payment system directly into the debtor's payroll account creates difficulties for the paymaster to do the billing, Although the actions of the debtor do not cause a bad credit, the character of the debtor is very influential collectability from the debtor's briguna credit.

2. Debtor repayment ability:

This can be seen from the risk of the debtor position when occupying a position in the institution where the debtor works. The risk of the position referred to here is the position of the debtor who is at risk of corruption which can result in a decrease in salary or dismissal as a civil servant resulting in absence ability to pay briguna credit from the debtor and results in bad credit.

Pursuant to Article 8 of Law Number 10 of 1998 concerning Amendments to the Banking Law Number 7 of 1992 concerning Banking, it is stated that before giving credit to a bank, it must carry out a thorough assessment, bearing in mind that the source of credit funds channeled is not funds from the bank itself but funds from the public so it is necessary to apply the precautionary principle through in-depth analysis, proper distribution, proper supervision and monitoring, legal agreements that meet legal requirements, binding of guarantees strong and regular and complete credit documentation, all of these are aimed at making the loan channeled back on time according to the loan agreement which includes the principal and interest loans.⁸

The bank's prudential principle is obliged to provide information regarding possible risks arising in connection with loans provided by banks. The purpose of implementing the precautionary principle in granting credit is so that the bank is always healthy in carrying out its business activities. Requests for

⁸ Elucidation of Article 29 paragraph 4 of the Banking Law

guarantees in the provision of briguna loans also received approval from civil servants applying for briguna loans on the grounds:⁹

- 1) The requirements for applying for personal loans are easier than applying for Home Ownership Loans and Motorized Vehicle Loans.
- 2) Administrative costs for briguna loans are cheaper than administration fees for Housing Loans and Motor Vehicle Loans which include administrative fees, fees and notary fees.
- 3) Providing security for the Certificate of Ownership and Proof of Ownership of the Motorized Vehicle owned by the debtor which is used as collateral in the briguna credit rather than being kept at home.
- 4) Provide confidence to the debtor that if the person concerned dies, then the relevant briguna credit will be repaid by the insurance company so that the Certificate of Ownership is kept at Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch can be taken by heirs.

In granting briguna credit, the most dominant factor in credit analysis is character, which of course is very important to be explored by bank officers before giving credit. Character relates to the character of a prospective debtor to fulfill his obligations in paying the loan installments until the loan is paid off. The briguna credit account officer can obtain information related to the character of the debtor, through the Financial Services Information System and from superiors or treasurers of the institutions where civil servants applying for credit work.

In carrying out its business activities, the bank will certainly face a variety of business risks. To reduce business risk, banks are required to apply the precautionary principle. This is in line with Article 2 of the Banking Law which states that: "Indonesian banks conduct their business based on economic democracy and use the precautionary principle. One way to apply the principle of prudence is the principle of getting to know customers, also known as "*Know Your Customer Principle*".¹⁰ The principle of knowing customers is the principle applied by banks to get to know and know the identity of customers, monitor suspicious transaction activities. In granting briguna credit, Briguna Account Officer as the initiator of the initial loan application briguna submitted by prospective debtors, must apply the principle "*Know Your Customer Principle*" with the aim of mitigating the risk of non-performing loans. And to mitigate these risks, Bank Rakyat Indonesia Limited Company offer civil servants applying for credit by looking and assessing their character and ability to pay to submit collateral in the form of a Certificate of Ownership and Proof of Ownership of a Motorized Vehicle owned by a debtor to be kept in a bank until the loan is paid off. Provision of briguna credit accompanied by guarantees to civil servants in Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch there is an agreement between the two parties where the fulfillment of the elements contained in the agreement theory, namely:

- 1) Statement Theory (*uithingstheorie*), agreement (*toesteming*) occurs when the party receiving the offer states that he accepted the offer;
- 2) Theory of Acceptance (*ontvangstheorie*), agreement (*toesteming*) occurs when the offer offers immediate response from the party offered.

⁹ Interview with Briguna Credit Debtor at Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch on August 3, 2019

¹⁰ <https://bisnis-law.binus.ac.id/principles-recognize-nasabah-in-perban>, visited on October 23, 2019, at 8:30 p.m

B. Position of Collateral in Providing Briguna Credit to Civil Servants At Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch

The function of collateral in bank lending is *source of the last* resort for repayment of loans granted by banks to their debtor customers, meaning that if it turns out that the main source of repayment of debtor customers in the form of financial results obtained from the debtor's business (*first way out*) is inadequate, as expected, the result of the execution of the guarantee (*second way out*) is expected to be the last alternative payment source that can be expected by the bank from the debtor.

Credit guarantees can also be interpreted as anything that has easy to cash value that is bound by a promise as collateral for payment of debtor debt based on credit agreements made by creditors and debtors. Credit guarantees will provide legal certainty to banks that their credit will continue to return by executing their bank credit guarantees. According to Subekti, the ideal guarantee is a guarantee that can easily assist in obtaining credit by those who need it, does not weaken the position (strength) of the credit recipient to continue his business and provide certainty to the creditor in the sense that, if necessary, it is easy to cash in to pay off the debtor's debt.¹¹ In the mechanism for giving loans that are accompanied by collateral to Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch, guarantees submitted by the debtor notarial binding is performed, because the guarantee in the form of a certificate of ownership is an agreement between the parties Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch with debtors that are not bound by the principal agreement, so that the Debt Recognition Letter is not specified in detail the type of collateral submitted by the debtor to the bank. However, in banking administration, the collateral is only kept at Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch until the debtor's credit is paid off and the guarantee serves as a moral binding that aims to provide a psychological burden so that the debtor is more responsible in paying briguna credit installments until the loan is paid in full and as evidence for the debtor that the guarantee submitted in the form of a Certificate of Ownership or Proof of Ownership of a Motorized Vehicle is only made as a receipt for the guarantee.

But the surrender of guarantees from civil servants applying for credit to Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch which is only proven by a guarantee receipt so that there is no legal protection for creditors in the event of problems in the future. Bad credit amount at Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch not too large compared to the number of Briguna Credit debtors, bad credit problems that arise in Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch in the period of 2016-2018 the background of the problem:¹²

- a. Decreased salary of civil servants due to the expiration of the term of service of civil servants as one of the officials in the institution where the civil servant works.
- b. There is a transfer of bank payroll payments for civil servants from Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch to a competitor's bank based on the recommendation of an authorized official from the institution where the civil servant works.

The problem of credit briguna on Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch as explained above, it was completed with 2 (two) settlement strategies, namely taking credit rescue measures and credit settlement actions. Credit rescue measures aim at minimizing the possibility of losses to the bank. This credit settlement is intended so that the bank's book as a creditor is not burdened by Non-Performing Loans (NPLs). Whereas credit settlement is an effort made by banks to settle problem loans that do not have prospects after the fostering and rescue efforts, as well as sharing the kinds of efforts taken by the banks to no avail.

¹¹ Subekti, 1993 Guarantees for Granting Credit according to Indonesian Law, Citra Aditya Bhakti, Bandung,

¹² Rachmadi Usman, Op.Cit, page 286

Action to save non-performing loans at Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch more emphasis on rescue efforts through a persuasive approach to the relevant civil servants. It is endeavored to create goodwill and cooperative attitude from the debtors of the civil servants in order to obtain the actual conditions of the debtors of the civil servants to assess their abilities and request the commitment of the debtors' ability to pay briguna loans. If a persuasive approach has been made but it still creates difficulties for the debtor to make payments, then Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch credit restructuring. Credit restructuring is an improvement effort made by banks against debtors who have difficulty meeting their obligations. The purpose of the restructuring is to save credit and debtors, while prioritizing Bank Rakyat Indonesia's interests.¹³ Restructuring can be carried out on debtors who meet the criteria, namely the debtor has difficulty paying principal and / or interest and the debtor is in good faith to cooperate (cooperative) on the restructuring efforts to be carried out.

The final step in resolving non-performing loans is write-off is an effort to settle problem loans for Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch based on the provisions of Article 37 paragraph (1) letter c of Law No. 10 of 1998 which states: "In the event that a bank experiences difficulties that endanger its business continuity, Bank Indonesia can take action so that banks write off loans or financing based on the principle of bad sharia and calculate bank losses with capital." Write off is done by Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch if all the efforts that have been made on non-performing loans have not produced results, so the collectibility of non-performing loans has been included in the bad category.

However, the bookkeeping step is carried out by Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch for non-performing loans does not mean that the debtor's obligations to the bank have been released, the bank still has the right to collect the debts from the debtor even though the debt has been written off. Likewise with guarantees submitted by debtors in briguna loans. The bank cannot transfer the collateral because the binding is notarized, so that the provision of credit briguna accompanied by guarantees to civil servants does not provide legal certainty for Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch.

From the description above, that a guarantee which is not notarized by a notary in providing briguna credit in the event of a non-performing loan, for the guarantee, the Certificate of Ownership or Proof of Ownership of Motorized Vehicles cannot be transferred. The guarantee does not provide legal certainty for Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch in the settlement of the problem loans. Besides that policy Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch who do not bind a notariil to the guarantee of debtors of civil servants in granting briguna credit that does not meet the provisions stipulated in Law Number 4 of 1996 concerning Mortgage Rights and Law Number 42 of 1992 concerning Fiduciary Collateral, in which every immovable object or movable object which is used as collateral in providing credit must be bound notarized and registration is carried out which aims to provide legal certainty to the parties concerned in guarantee of mortgage and fiduciary security.

From the above problems, that the risks involved in granting briguna credit accompanied by guarantees to civil servants can be seen from two sides namely the risk borne by Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch as a creditor can be in the form of credit risk, one of which is the settlement of problem loans that are accompanied by collateral, where the collateral is not bound by notarial binding, which makes it difficult for banks to settle the problem loans. While the risk borne by the debtor is that the debtor cannot participate in determining the contents of the agreement and the collateral requested for the briguna credit is not included in the briguna debt acknowledgment and

¹³ Circular Letter of Bank Rakyat Indonesia Board of Directors Nose S.10-DIR / ADK / 05/2015, Op.Cit

only evidenced by the collateral receipt which proves that the collateral belonging to the debtor is kept Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch until the credit concerned is paid off.

The different position between the bank and the debtor customer that is where the bank has a stronger bargaining position when compared to the debtor customer causes an imbalance in making bank credit agreements. This is due to the bank credit agreement made in the standard form by the bank so that the contents of the standard credit agreement are more beneficial to the bank while the customer can only accept it. The bank can enter clauses that benefit it but disadvantage the debtor customer such as an exoneration clause that frees the bank as a creditor from its obligations.

In connection with the foregoing, the importance of protecting consumers is important, even though the Consumer Protection Act does not explicitly state the legal basis of the agreement. Protection efforts for debtor customers against the risks they experienced in the bank loan agreement can be done not only by applying Article 18 of the Consumer Protection Act, but also in accordance with Bank Indonesia policy. Since 2002, Bank Indonesia has begun to draw up a blueprint for the national banking system, which includes aspects of efforts to protect and empower customers with customer complaints, formation of mediation institutions, transparency of product information and customer education.

Conclusion

1. Background Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch Padang carries out the provision of briguna credit accompanied by collateral, namely because of the character and ability to pay civil servants applying for briguna credit, in this case, it can be seen from the problems that cause non-performing loans, namely (1) the character of the debtor where there is bad faith from the debtor during the process of payment of salaries by Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch, where the debtor makes a withdrawal of the balance before the loan autodebet process is carried out by the system so that there is a delay in the payment of useful loans which results in the collectibility of Special Mention and the possibility of transferring salary by an authorized official at the agency where the debtor works to a competitor's bank and causing the debtor to make a deposit directly into the loan account or through a payer, but due to unscrupulous debtors who have bad character or lack of good faith, there are often delays in the payment of briguna loans. (2) the ability to pay debtors, this can be seen or analyzed from the risk of the position of civil servants applying for credit that has the possibility of a risk of salary reduction due to a decrease in office or termination of employment as a civil servant due to criminal acts of corruption and can cause the occurrence of bad credit.
2. The collateral position in the loan is only morally binding which aims to have a psychological impact on the debtor so that the debtor is more responsible in paying credit installments until the loan is paid off. With respect to these guarantees, notarial binding is done but only stored on Bank Rakyat Indonesia Limited Company (Persero) Tbk until the credit is paid off with proof of guarantee receipt. However, in the event of a problematic loan and written-off loans have been carried out, the debtor's obligations still remain and the position of the loan guarantee is useful, execution cannot be carried out because notation is notarized according to Act Number 4 of 1996 concerning Mortgage Rights and Act Number 42 of 1992 concerning fiduciary so that it does not provide legal certainty to Bank Rakyat Indonesia Limited Company (Persero) Tbk Padang Branch.

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